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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,970	12/27/2000	Ralph M. Martin	RM393a	5888

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RICK MARTIN  
PATENT LAW OFFICES OF RICK MARTIN, PC  
416 COFFMAN STREET  
LONGMONT, CO 80501

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 03/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
**09/748,970**

Applicant(s)  
**Martin et al.**

Examiner  
**Vanaman**

Art Unit  
**3611**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Dec 27, 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4, 7 20) ☐ Other:

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### **Inventorship**

1. In view of the papers filed Aug. 3, 2001, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of inventor O'Connell.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

### **Oath/Declaration**

2. The Declaration filed with the petition to correct inventorship includes complete post office addresses for each inventor, but only lists a country as a residence for each inventor. The residence of an inventor is the city and state in which that inventor lives (which may be different from the post office addresses). For the purposes of this office action, the residences of each inventor are assumed to be the city and state of the respective post office addresses. If this is not the case, then a new declaration will be required.

### **Drawings**

3. The drawings are objected to because of the following informality: in figure 25, the "F - R" legend for the bottom portion of element 237 (proximate numeral 3009), appears to be reversed, in view of the direction of the "F-R" legend of element 236 and the presence of a pivot at 3005. Correction is required.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the linear activator (claim 13) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Also, please see the specification at page 12, line 4.

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### **Specification**

5. The disclosure is objected to because of the following informalities: on page 13, line 15, "22-30" should be --22-25-- as there are only 25 figures; on page 15, line 5, "boat" should be --boot--.

Appropriate correction is required.

### **Claim Objections**

6. Claim 7 is objected to because of the following informalities: on line 4, "receiver to receiver" should be --receiver to receive--. Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

7. Claims 13, 14, 16, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 13, line 4, the phrase "unplug the plug" is confusing absent any further recitation of an engagement between the plug and the element from which it is to be 'unplugged'.

### **Claim Rejections - 35 USC § 102**

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Camp (DE 2,402,684). Camp teaches a binding device for a ski (14) including a track (32) for receiving a ski binding member (12), a remote transmitter (22), a receiver (24) mountable on the ski and having a linear actuator (62) connected through a linkage to the track, the remote transmitter

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activating the receiver to cause movement of the track and a lengthening of the distance between the heel binding piece (see page 5, line 21) and toe binding piece (12).

### **Claim Rejections - 35 USC § 103**

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2, 6, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camp in view of Camp (cited above). Camp teaches a binding device for a ski (14) including a track comprising a flat rigid member (34, 28, 16) which slides within an anchor device (32) having forward and rearward tabs for connection to the ski (see figures 2 and 4), the track for receiving a ski binding member (12); a remote transmitter (22) located within a ski pole (figure 5) and including a both main and safety switches (112, 96), wherein both switches must be engaged in order to operate the transmitter, a receiver (24) mountable on the ski and having a linear actuator (solenoid 62) connected through a linkage to the track, the remote transmitter activating the receiver to cause movement of the track and a lengthening of the distance between the heel binding piece (see page 5, line 21) and toe binding piece (12); the mechanism including a piston portion (and of 36) which is spring loaded (50), the piston having a locking groove (54) which is engaged with a pivotally mounted locking pin (portion 52 of member 56, see figure 3), the receiver operating an electronic trigger (80, 82) which operates the solenoid, the spring (50) being set or cocked by a lever (42) pivotally mounted to the ski (14) by a wedge-shaped element (pivotal end of 42), as broadly claimed.

As regards claims 2 and 18, the reference to Camp fails to teach the track as being connected to the heel piece. A reversal of parts such that the heel, rather than toe, binding piece is

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actuated by the track and actuator element would be within the skill of the ordinary practitioner, in that the operation of the release device, namely an increase in the distance between the heel and toe binding pieces would not be adversely affected, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to connections the actuator and track to the heel binding piece, rather than the toe binding piece, for the purpose of locating the actuator rearwardly of the user, in order to adjust the center of balance and weight distribution of the ski, for example.

12. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camp in view of Emilson (US 4,319,767). The reference of Camp is discussed in detail above, and fails to specifically teach the provision of a housing which contains the main spring. Emilson teaches a release device (10, 18) for a ski binding, wherein a main spring (42) is located internally of a housing (32). It would have been obvious to one of ordinary skill in the art at the time of the invention to locate the main spring of Camp inside a housing as suggested by Emilson for the purpose of preventing damage to the spring, and to protect it from the ambient elements common to a skiing environment, thus lengthening the lifespan of the spring.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camp in view of Emilson and Rohrmoser (US 5,498,017). The references of Camp and Emilson are discussed above and fail to teach the toe piece, heel piece, track and actuator as being mounted on a mounting plate having a hole for mounting to a ski. Rohrmoser teaches a release system for a ski boot where the entire binding and actuator device is housed on a mounting plate 5) which includes at least one aperture for a screw (12) for mounting the assembly to a ski (2). It would have been obvious to one of ordinary skill in the art at the time of the invention to mount the entire track toe and heel piece of the binding system of Camp as modified by Emilson on a mounting plate which

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may be attached to a ski for the purpose of allowing the binding assembly to be quickly and simply attached to a ski, facilitating a reduction in assembly time.

14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camp in view of Gertsch et al. (US 3,888,498). The reference of Camp is discussed above and fails to teach the track as having a compressed gas cylinder with a piston attached to the track. Gertsch teaches a binding release device wherein a gas cylinder (1, 2, also note col. 3, lines 45-50) is provided with at least one piston (e.g., 4) for damping motion of a release element (3) to which the piston is connected. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a compressed gas cylinder and piston as taught by Gertsch et al. to the binding system of Camp, with the piston connected to a track portion, for the purpose of damping the motion of the track when it releases.

#### **Allowable Subject Matter**

15. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Claims 13, 14, 16 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wunder (US 3,528,672), Smolka (US 3,794,339), Spitaler et al. (US 4,545,598), Hopkins (US 6,007,086), and Sittmann (DE 2,406,015) teach binding devices of pertinence.

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18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents  
Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;  
informal or draft communications may be faxed to the same number but should be  
clearly labeled "UNOFFICIAL" or "DRAFT")

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3611**

F. Vanaman  
March 13, 2002



3/13/02